

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

BETHEL SMITH,)
Plaintiff)
v.) No. 4:05-cv-08
JO ANNE B. BARNHART,)
Commissioner of)
Social Security,)
Defendant)

MEMORANDUM AND ORDER

This matter was referred to a United States magistrate judge of this district pursuant to 28 U.S.C. § 636(b) and Rule 72(b), Federal Rules of Civil Procedure, for a report and recommendation regarding disposition of plaintiff's motion for summary judgment [Court File #14] and defendant's motion for summary judgment [Court File #18]. Plaintiff has also filed a motion to remand to consider new evidence [Court File #20] which defendant opposes. In a report and recommendation dated February 14, 2006, the United States magistrate judge recommended that plaintiff's motions be denied and defendant's motion be granted. Plaintiff has failed to timely file an objection to the report and recommendation and is deemed to have waived any response thereto.

Upon a *de novo* review of the record in this case and the magistrate judge's report and recommendation, I am in agreement with the United States magistrate judge. Specifically, there is substantial evidence in the record to support the administrative law judge's conclusion that plaintiff's can perform her past relevant work. Further, plaintiff has failed to demonstrate that this is an appropriate case for a sentence six remand.

In light of the foregoing, it is hereby ORDERED that the magistrate judge's report and recommendation [Court File #22] is ACCEPTED IN WHOLE, whereby plaintiff's motion for summary judgment [Court File #14] is DENIED; plaintiff's motion to remand [Court File #20] is DENIED; defendant's motion for summary judgment [Court File #18] is GRANTED; and the final decision of the defendant Secretary is AFFIRMED.

E N T E R :

s/ James H. Jarvis
UNITED STATES DISTRICT JUDGE